

# The Kansas City Southern Railway Company Louisiana & Arkansas Railway Company

301 West 11th Street, Kansas City, Missouri 64105

RICHARD P. BRUENING  
Vice President and General Counsel

NOV 4 1982-2 15 PM

November 3, 1982

Hon. Agatha L. Mergenovich  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

INTERSTATE COMMERCE COMMISSION

NOV 4 1982

REGISTRATION NO. 13831

Fee \$100.00

NOV 4 1982-2 15 PM

ICC Washington, D. C.

INTERSTATE COMMERCE COMMISSION

13831  
REGISTRATION NO. 13831

NOV 4 1982-2 15 PM

INTERSTATE COMMERCE COMMISSION

RE: Lease No. 1001, dated as of April 30,  
1982 between Carland, Inc., Louisiana  
& Arkansas Railway Company, Security  
Agreement & Assignment thereof, and  
Consent to Assignment

Dear Ms. Mergenovich:

I have enclosed an original and three counterparts  
of the three (3) documents described below, to be recorded  
pursuant to Section 11303 of Title 49, United States Code.

These documents are: (1) a Lease (No. 1001) between  
Carland, Inc. and Louisiana & Arkansas Railway Company which  
is a primary document; (2) a Security Agreement and Assignment  
of said Lease; and (3) a Consent to said Assignment. The lat-  
ter two documents are secondary documents.

These documents have not been previously recorded.

The names and addresses of the parties to the docu-  
ments are as follows:

Lessor: Carland, Inc.  
8300 West 83rd Street  
Shawnee Mission, KS 66208

Lessee: Louisiana & Arkansas Railway Company  
114 West 11th Street  
Kansas City, MO 64105

Security Party: The Northern Trust Co.  
50 LaSalle Street  
Chicago, IL 60675

A description of the equipment covered by the docu-  
ments is as follows:

RECEIVED  
NOV 4 2 09 PM '82  
FEE OPERATION PR  
I.C.C.

*Richard P. Bruening*

<u>Type</u>	<u>A.A.R. Mech. Designation</u>	<u>Quantity</u>	<u>Road Numbers</u>
EMD Loco- motive Model GP-40	B-B	19	KCS 777 - KCS 795, both inclusive

A fee of <sup>ONE HUNDRED</sup> ~~seventy~~ dollars <sup>(\$100.00)</sup> ~~(\$70.00)~~ is enclosed. Please return all counterparts of the documents not needed by the Commission for recordation to the party tendering same.

A short summary of the documents to appear in the index is as follows:

1. Lease No. 1001 between Carland, Inc. and Louisiana & Arkansas Railway Company dated April 30, 1982, covering 19 locomotives (KCS 777-795 both inclusive)
2. Security Agreement and Assignment between Carland, Inc. and Northern Trust Company assigning rights under Lease 1001 to Northern Trust.
3. Consent to said Assignment by Lessee.

Yours very truly,



Richard P. Bruening

RPB:cm  
Encl.

SECURITY AGREEMENT AND ASSIGNMENT  
(Rolling Stock and Other Equipment)

NOV 4 1982-2 15 PM

INTERSTATE COMMERCE COMMISSION

LEASE NO. 1001

LESSEE Louisiana & Arkansas  
Railway Company

THIS AGREEMENT (hereinafter sometimes called "this Agreement") dated as of April 30, 1982, is between CARLAND, INC., a Delaware corporation (hereinafter called "Company"), 4200 West Eighty-third Street, Prairie Village, Kansas, 66208, and THE NORTHERN TRUST COMPANY, a banking corporation organized under the laws of the State of Illinois (hereinafter called "Bank"), having its main banking office at 50 South LaSalle Street, Chicago, Illinois 60675;

WHEREAS, the Company and the Bank have entered into a Term Loan Agreement dated as of April 30, 1982 (the "Loan Agreement");

WHEREAS, the security interests created hereunder are intended as collateral for borrowings under the Loan Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions. As used herein the following terms shall have the following meanings:

(a) The term "Collateral" shall mean all property and rights in which a security interest is granted hereunder.

(b) The term "Equipment" shall mean the equipment owned by the Company and described on Schedule A hereto or described in such Schedule B's to the Leases pertaining to the lease of such Equipment as may from time to time be executed by the Company and the Lessee and delivered by the Company to the Bank pursuant hereto, together with all accessories, equipment, parts and appurtenances appertaining or attached to any of such Equipment, whether now owned or hereafter acquired, and all substitutions, renewals and replacements of, and additions, improvements, accessories and accumulations to, any and all of such Equipment.

(c) The term "Leases" shall mean the Leases as defined in the Loan Agreement whereunder the Company has leased Equipment the purchase of which is financed by a loan made by the Bank as contemplated by the Loan Agreement, copies of which Leases are delivered by the Company to the Agent in connection with such loan. Without limitation of the foregoing, this Agreement has been executed and delivered specifically in connection with the Lease identified at the top of page 1 hereof.

(d) The term "Liabilities" shall mean all obligations of the Company under the Loan Agreement and under the Note and each other instrument (including, without limitation, this Agreement) executed by it pursuant to the Loan Agreement,

and all other obligations of the Company to the Bank, its successors and assigns, however created, arising or evidenced, whether direct or indirect, absolute or contingent, or now or hereafter existing, or due or to become due.

(e) The term "Note" shall mean the promissory note in the original principal amount of \$2,000,000 of the Company dated as of April 30, 1982, evidencing the loan made by the Bank under the Loan Agreement.

(f) The term "Rental" shall mean, regardless of form and however evidenced, all sums due and to become due Company under the terms of any Lease and shall also mean all accounts receivable arising out of the lease or sale of Equipment.

(g) The term "Default Event" shall mean the occurrence of any of the following events: (a) default by the Company in the due performance or observance of any agreement on its part hereunder and continuance of such default for a period of 30 days after notice thereof by the Agent to the Company, or (b) any Event of Default as that term is defined in, but in all events subject to the terms and conditions of, Section 6 of the Loan Agreement.

2. Grant of Security Interest. As security for payment of all Liabilities, the Company hereby mortgages, transfers, grants, and assigns to the Bank and grants to the Bank a continuing security interest in and to, the following:

all right, title and interest whatsoever of the Company in and to the Equipment; all right, title and interest whatsoever of the Company in, to, and under the Leases including (without limitation) all Rental due or to become due in respect of any Equipment; and all proceeds of any of the foregoing.

3. Covenants of Company Respecting Equipment and Lease.

(a) Maintenance of Equipment. The Company will at all times cause all Equipment and every part thereof to be maintained in good condition and repair as required by the terms of the Leases and will, within 45 days after knowledge by an officer or responsible employee of the Company of the occurrence thereof, furnish or cause to be furnished to the Bank a statement respecting any loss or damage to any of the Equipment which has not been corrected within 30 days after the acquiring of such knowledge.

(b) Obligations under Lease. The Company will observe and perform all of its obligations under each Lease.

(c) Legends on Rolling Stock. The Company shall plainly and permanently stencil or cause to be so stencilled a legend on each unit of Equipment which constitutes railway rolling stock, in letters not less than one (1) inch in height indicating the security interest herein created, as follows:

"Subject to a security agreement  
filed with the Interstate Commerce  
Commission."

Company further agrees to cause its Lessees to replace immediately any such stencilling which becomes illegible, wholly or in part.

(d) Risk of Loss-Insurance. The Company will at all times cause such insurance arrangements as are set forth on the schedule attached hereto as Exhibit B to be maintained so long as this Agreement remains in effect.

(e) No Further Encumbrances. Except for any Lease thereof or otherwise as required or permitted by this Agreement or the Loan Agreement or with the prior written consent of the Bank, the Company will not (and warrants that it has not done any of the following) sell, loan, pledge, mortgage, assign or otherwise dispose of, or create or suffer to be created any levies, liens or encumbrances on, any of the Equipment or any interest therein or Lease thereof or any of the Rental, and will from time to time cause to be paid all liens, taxes, assessments and governmental charges lawfully levied, assessed or imposed upon any of the Equipment or any interest therein or Lease thereof or of any of the Rental; provided, however, that nothing herein contained shall be deemed to require or to have required any lien, tax, assessment, charge, claim or demand to be paid or discharged prior to the due date thereof, and further provided that nothing herein contained shall be deemed to require or to have required any lien, tax, assessment, charge, claim or demand to be paid or discharged so

long as the validity thereof is being contested by the Company in good faith by appropriate proceedings if the Company shall have set aside on its books adequate reserves with respect thereto and shall cause the same to be paid prior to the foreclosure of any lien which may have attached as security therefor. Company will give the Bank notice of any attachment or judicial process affecting any of the Equipment, Leases or Rental promptly after the Company acquires knowledge thereof.

4. Right of Inspection. The Bank or any agent of the Bank shall have at all times the right to enter into and upon any premises where any of the Equipment is located for the purposes of inspecting the same, observing its use or otherwise protecting the Bank's interest therein.

5. Payment of Rental.

(a) General. Until such time as the Bank shall notify the Company of the revocation of such power and authority, the Company will, at its own expense, try to obtain payment, when due and payable, of all Rental, including the taking of such action with respect thereto as the Bank may reasonably request or, in the absence of such request, as the Company may deem advisable.

(b) Default. Upon the occurrence of an Event of Default under the Loan Agreement (or an event which might mature into an Event of Default thereunder) as provided by, but subject in all events to the terms and conditions of, Section 6



of said Agreement: (1) the Bank may, and upon request of the Bank, the Company shall, notify and direct any lessee or other obligor on any Collateral to make payment to the Bank or to the Company in care of the Bank at such address as the Bank may designate, of all Rental payable under such Lease; the Company will reimburse the Bank for all expenses, including (without limitation) reasonable attorneys' fees and legal expenses, incurred by the Bank in seeking to collect any Rental or enforce any rights under any Lease; and (ii) the Company will upon request of the Bank forthwith from time to time thereafter upon receipt, transmit and deliver to the Bank, in the form received, all cash, checks, drafts and other instruments for the payment of money (properly endorsed, where required, so that such items may be collected by the Bank) which may be received by the Company at any time as payments on account of any Rental and as proceeds of any Collateral. Until delivery to the Bank, such items will not be commingled by the Company with any of its other funds or property, but will be held separate and apart from such other funds and property and upon trust for the Bank.

(c) Collections. The Bank may endorse the name of the Company on any check, draft or other instrument for the payment of money received by the Bank on account of any Rental or Equipment, or otherwise as proceeds of any Collateral, if it believes such endorsement is necessary or desirable for the purposes of collection.

(d) Indemnification. The Company will indemnify and save harmless the Bank from and against all liabilities and expenses, including reasonable attorneys' fees, on account of any adverse claim asserted against the Bank to any Rental or other moneys received by the Bank from the lessee under any Lease, and such obligation of the Company shall continue in effect after and notwithstanding the termination of the Loan Agreement, the discharge of the liabilities and the release hereof.

6. Schedule B. Whenever the Company shall hereafter acquire additional Equipment for lease under a Lease and propose to finance such Equipment and Lease under the Loan Agreement, the Company shall forthwith execute and deliver to the Bank a Schedule B dated the date of such Equipment acquisition, along with the other documentation required by the Loan Agreement, which Schedule B shall state on its face that the Equipment identified thereon and the Lease thereof are subject to the security interest granted by this Agreement.

7. Default. Whenever a Default Event shall be existing, the Bank may exercise any one or more or all, and in any order, of the remedies, hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies; but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute;

(a) The Bank may, by notice in writing to the Company, declare the Note to be forthwith due and payable, whereupon the Notes shall forthwith become due and payable, without presentment, demand, further notice or protest of any kind, all of which are hereby expressly waived by the Company;

(b) The Bank, personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the Equipment, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises, of the Company, with or without notice, demand, process of law or legal procedure, and search for, take possession of, remove, keep and store the same, or use and operate the same until sold; it being understood, without limiting the foregoing, that the Bank may, and is hereby given the right and authority to, keep and store said Equipment, or any part thereof, on the premises of the Company, and that the Bank shall not thereby be deemed to have surrendered, or to have failed to take, possession of such Equipment;

(c) The Bank shall have the rights and remedies of a secured party under the Uniform Commercial Code of Illinois, including without limitation thereto, the right to sell, lease or otherwise dispose of any or all of the Collateral and the right to take possession of the Collateral, and

for that purpose the Bank may, so far as the Company can give authority therefor, enter upon any premises on which the Collateral or any part thereof may be situated and remove the same therefrom. The Bank may require the Company to assemble the Collateral and make it available to the Bank at a place to be designated by the Bank which is reasonably convenient to both parties. Unless the Collateral threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Bank will send the Company reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other disposition thereof is to be made;

(d) The Bank may proceed to protect and enforce this Agreement and the Note by suit or suits or proceedings in equity, at law or in pending bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted, or for foreclosure hereunder, or for the appointment of a receiver or receivers for the Equipment or any part thereof, or for the recovery of judgment for the indebtedness hereby secured, or for the enforcement of any other proper legal or equitable remedy available under applicable law;

(e) The Bank may proceed to enforce in respect of a Lease and the Equipment covered thereby and the duties,

obligations and liabilities of the Lessee thereunder, all rights, privileges and remedies in said Lease or by applicable law permitted or provided to be exercised by the Company, and may exercise all such rights and remedies either in the name of the Bank or in the name of the Company for the use and benefit of the Bank; or

(f) The Bank may sell the Rentals reserved under a Lease, and all right, title and interest of the Bank as assignee thereof, at public auction to the highest bidder for cash, the Bank to give the Company 10 days' prior written notice of the time and place of holding any such sale, and provided always that the Bank shall also comply with any applicable mandatory legal requirements in connection with such sale.

Any sale or sales pursuant to the provisions hereof or pursuant to any legal proceedings, shall operate to divest the Company of all right, title, interest, claim and demand whatsoever, either at law or in equity, of, in and to the Collateral so sold, and shall be free and clear of any and all rights of redemption by, through or under the Company, the Company hereby agreeing that it will not at any time insist upon or plead, or take the benefit or advantage of or from, any law now or hereafter in force providing for a valuation of appraisement of the Equipment prior to any sale or sales thereof or providing for any right to redeem the Equipment or any part thereof. The

receipt by the Bank, or by any person authorized under any judicial proceeding to make any such sale, shall be a sufficient discharge to any purchaser of the Equipment, or of any part thereof, sold as aforesaid; and no such purchaser shall be bound to see to the application of such purchase money, or be bound to inquire as to authorization, necessity or propriety of any such sale. In the event at any such sale the holder or holders of the Note is or are the successful purchaser or purchasers, such holder or holders of said Note shall be entitled, for the purpose of making settlement or payment, to use and apply said Note by crediting thereon the amount apportionable and applicable thereto out of the net proceeds of such sale.

Any notification required by law of intended disposition by the Bank of any of the Collateral shall be deemed reasonably and properly given if at least 10 days before such disposition. Any proceeds of any disposition by the Bank of any of the Collateral may be applied by the Bank to the payment of expenses in connection with the Collateral, including, without limitation, reasonable attorneys' fees and legal expenses; any balance of such proceeds shall be applied against the Liabilities ratably according to the respective amounts (principal and interest) owing to the Bank first under the Loan Agreement and second, pursuant to other evidences of indebtedness. The Company shall continue to be obligated for all Liabilities remaining unpaid after such application.

8. Power of Attorney. The Bank may from time to time, at its option (and the Company appoints the Bank its true and lawful attorney, irrevocably in connection therewith with full power of substitution) perform any obligation to be performed by the Company hereunder or under the Loan Agreement or any other instrument executed pursuant thereto which Company shall fail to perform and take any other action which the Bank deems necessary for the maintenance or preservation of any of the Collateral or its security interest in the Collateral. All moneys advanced by the Bank in connection with the foregoing, together with interest at the post-maturity rate (as defined in the Loan Agreement), shall be repaid by Company to the Bank, upon the latter's demand, and shall be secured hereby, but the making of any such advance by the Bank shall not relieve Company of any default hereunder. The Bank's rights hereunder are rights only, and shall not obligate the Bank to act or refrain from acting in any respect whatsoever.

9. Miscellaneous. (a) The Bank does not assume any obligation or liability to any lessee under any Lease, and any such assumption is hereby expressly disclaimed.

(b) Any payment to be made by the Bank to the Company in connection herewith shall be made by crediting such amount to a general deposit account maintained by the Company with the Bank, unless Company otherwise directs.

(c) All written notices, requests and demands to or upon the respective parties hereto shall, except in cases where it is expressly herein provided that such notice, request or demand is not effective until received by the party to whom it is addressed, be deemed to have been given or made when deposited in the mail, postage prepaid, addressed to such party at its address set forth above, or to such other address as may be hereafter designated in writing by the respective parties hereto.

(d) No failure or delay on the part of the Bank in the exercise of any right or remedy hereunder or under any other instrument or otherwise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

(e) The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any provisions hereof.

(f) Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if, for any reason whatsoever, any one or more of the provisions of this Agreement shall be held or deemed to be inoperative, unenforceable or



invalid as applied to any particular case or cases in any particular jurisdiction or jurisdictions or in all cases, such circumstance shall not have the effect of rendering such provision inoperative, unenforceable or invalid in any other jurisdiction or in any other case or of rendering any of the provisions of this Agreement inoperative, unenforceable or invalid.

(g) This Agreement shall be a contract made under and governed by the laws of the State of Illinois.

(h) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and, without limiting the foregoing, all rights and powers hereunder or with respect hereto of the Bank or any agent or representative of the Bank, may be exercised by any successor or assignee.

(i) This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which shall together constitute but one and the same instrument.

(j) With respect to Equipment consisting of Rolling Stock, Company shall cause this Agreement, the pertinent Lease, and each Schedule B executed and delivered by Company from time to time hereunder to be filed and recorded with the Interstate Commerce Commission pursuant to Section 11303 of the Interstate Commerce Act. With respect to all Equipment, Company shall execute from time to time all filings necessary

or appropriate under applicable law in evidence of or for purposes of perfecting the Bank's rights hereunder, including (without limitation) as to applicable law, the Uniform Commercial Code of Illinois.

(k) This Agreement and the rights of the Bank hereunder are assignable by the Bank at any time.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the day and year first above written.

The Company

CARLAND, INC.

By 

Its president

[Corporate Seal]

ATTEST:

  
Secretary

The Bank

THE NORTHERN TRUST COMPANY

H. H. Tyler, Jr.  
Vice President

) SS.

On this 30th day of April, 1982, before me personally appeared Marshall H. Dean, to me personally known, who, being duly sworn, says that he is a ~~VXX~~ President of CARLAND, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Becky S. Mueller  
Notary Public

June 4, 1985

Schedule A to  
Security Agreement

Description of Equipment:

NINETEEN (19) - GP-40 Locomotives, 4 axle, 3000  
Horsepower, Diesel

Manufacturer: Electro Motive Division  
of General Motors Corporation

<u>ICG Number</u>	<u>KCS Number</u>	<u>Original Build Date</u>
3040	777	2/67
3041	778	2/67
3042	779	2/67
3044	780	2/67
3045	781	2/67
3046	782	2/67
3047	783	2/67
3048	784	2/67
3049	785	2/67
3050	786	2/67
3051	787	2/67
3052	788	2/67
3053	789	2/67
3054	790	2/67
3055	791	2/67
3056	792	3/67
3057	793	2/70
3058	794	3/67
3059	795	3/67

Schedule B to  
Security Agreement

Insurance:

Collision, casualty and liability insurance with deductibles of \$1,500,000 to a limit of \$65,250,000, except for licensed rubber tired vehicles, for which liability insurance only shall be carried with a limit per occurrence of \$500,000.